

UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re

) Case No. _____
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) NOTICE OF HEARING ON MOTION
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)
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) FOR RELIEF FROM **DEBTOR'S**
)
)
)

) AUTOMATIC STAY IN A **CHAPTER**
)
)

) **7/13 CASE, AND/OR CODEBTOR'S**
)

Debtor(s)) **STAY IN A CHAPTER 13 CASE**

The attached Response, filed for the respondent, _____, who is the (debtor, trustee, etc.) _____, is in response to the Motion for Relief from Stay filed on behalf of (moving party) _____.

The name and service address of the respondent's attorney (or respondent, if no attorney) are: _____.

(If debtor is respondent) The debtor's address and Taxpayer ID#(s) (last 4 digits) are: _____.

NOTICE IS GIVEN THAT:

1. A "**MEET-ME**" style **TELEPHONE HEARING** on the motion will be **HELD AT** _____ **ON** _____. **NO TESTIMONY** will be taken at the hearing.
2. **NO LATER THAN THE HEARING TIME SHOWN ABOVE, ALL** parties are **REQUIRED TO CALL IN AND CONNECT** to the "MEET-ME" telephone hearing line at **503-326-6337**. When connected, **ENTER** the 3-digit **ID No. "777** followed by the **"#"** key. [NOTES: (a) Do NOT call more than 5 minutes before this hearing, AND (b) If you have problems connecting, call the court at 503-326-1510 for a PORTLAND office case OR 541-431-4005 for a EUGENE office case.]
3. Participants **MUST COMPLY WITH EACH REQUIREMENT** listed below:
 - a. **YOU MUST, NO LATER THAN the time set above, EITHER call the "MEET-ME" line using the instructions above for THIS hearing date**, or personally appear in the judge's courtroom. The court will **NOT** call the parties.
 - b. **DO NOT USE** a SPEAKER PHONE, CELL PHONE **OR HEADSET!** You may be asked to call from another telephone if your phone causes static or has excessive background noise, etc., or the signal is weak or drops.
 - c. You must take all necessary steps to **ELIMINATE BACKGROUND NOISE**, such as shutting the door, turning off music, not putting the court on hold if it will result in music or other noise, not talking to third parties, using a "Do Not Disturb" button so the telephone/intercom will not ring, positioning the telephone to minimize paper rustling, and keeping all nonparticipants in the room quiet.
 - d. **DO NOT** introduce yourself until the court calls your specific hearing. Simply stay on the line, even if there is only silence, until the judge appears, and then continue to listen quietly until your hearing is called.
 - e. Whenever speaking, you must first identify yourself.
 - f. **DO NOT** be late. The judge will handle late calls the same as (s)he would a late appearance in court. If the case has already been called, the judge will likely decline to revisit any decision that was made when the case was called. Failure of the movant/plaintiff to appear at the scheduled time may result in denial of the relief requested, and failure of the respondent/defendant may result in the court granting the relief requested.

Signature

I certify that: (1) the RESPONSE WAS PREPARED USING a copy of the ORIGINAL Motion; (2) if the Response was electronically filed, the RESPONSE WAS PREPARED USING the "FILLABLE" PDF version of the ORIGINAL Motion unless the Motion was BOTH filed on paper AND it could NOT be otherwise electronically obtained from the movant; **AND** (3) that on _____ copies of BOTH: (a) this Notice, AND (b) the Response were served on the moving party's attorney (or moving party, if no attorney) at the address shown in the Notice of Motion, Trustee, and U.S. Trustee.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re) Case No._____
)
) (CHECK ALL APPLICABLE BOXES)
) Ch. 7/13 Motion for Relief from
) DEBTOR Chapter 13 CODEBTOR Stay
) Filed by Creditor:
)
Debtor(s)) <i>Response to Stay Motion filed by Respondent:</i> _____

1. Debt, Default, Other Encumbrances, Description and Value of Collateral (To be completed by creditor)

a. Description of collateral (car model, year, VIN, property address):

b. Amount of debt: \$_____ consisting of principal: \$_____; interest: \$_____; other: _____

c. Description, amount and priority of other encumbrances on collateral. If not known, include applicable information from debtor's schedules if available on PACER:

Total debt secured by collateral (total 1.b. + 1.c.): \$_____.

d. Value of collateral: \$_____.

Equity in collateral: \$_____, after deducting \$_____ liquidation costs.

e. Current monthly payment: \$_____.

f. If Chapter 13:

(1) \$_____ postpetition default consisting of (e.g., \$____ payments, \$____ late charges, \$____ fees):

(2) \$_____ prepetition default consisting of _____ amounts specified in proof of claim, or, _____ consisting of:

g. If Chapter 7, total amount of default \$_____.

RESPONSE (Identify specific items disputed and specify what you contend are the pertinent facts including why there is a postpetition default, if applicable) (to be completed by respondent):

2. Relief from stay should be granted because (check all that apply): (To be completed by creditor)

Lack of adequate protection because of failure to make sufficient adequate protection payments and lack of a sufficient equity cushion.

Lack of insurance on collateral.

No equity in the collateral and the property is not necessary for an effective reorganization.

Failure of debtor to make Chapter 13 plan payments.

Failure of debtor to make payments to secured creditor required by ¶4 of Chapter 13 plan.

Other (describe):

RESPONSE (Specify why relief from stay should be denied. If respondent proposes to cure a postpetition default, detail the cure by attaching a proposed order using Local Form (LBF) #720.90 available at www.orb.uscourts.gov under Rules & Forms/Local Bankruptcy Forms (LBF)) (to be completed by respondent):

3. Background (To be completed by creditor)

a. Date petition filed: _____ Current Chapter: ____ (7 or 13)
 If 13, current plan date _____ Confirmed: Yes No
 If 13, treatment of creditor's prepetition claim(s) in plan:

If 7, debtor has has not stated on Local Form (LBF) #521 or #521.05 that debtor intends to surrender the collateral.

b. Creditor has a lien on the collateral by virtue of (check all applicable sections and also see ¶6 below):
 Security agreement, trust deed or land sale contract dated _____, and, if applicable, an assignment of said interest to creditor. The security interest was perfected as required by applicable law on _____.
 Retail installment contract dated _____, and, if applicable, an assignment of said interest to creditor. The security interest was perfected on the certificate of title on _____.
 Other (describe):

RESPONSE (Identify any disputed items and specify the pertinent facts) (to be completed by respondent):

4. Request for Relief from Codebtor Stay (Only Chapter 13)

a. _____, whose address is _____, is a codebtor on the obligation described above, but is not a debtor in this bankruptcy.

b. Creditor should be granted relief from the codebtor stay because (check all applicable boxes): codebtor received the consideration for the claim held by creditor, debtor's plan does not propose to pay creditor's claim in full, creditor's interest would be irreparably harmed by continuation of the codebtor stay as a result of the default(s) described above and/or because:

RESPONSE (*Identify any disputed items and specify the pertinent facts (to be completed by respondent):*

5. Other Pertinent Information (*To be completed by creditor, if applicable*)

Creditor's claim is secured by real property and debtor's filing of this petition was part of a scheme to delay, hinder, and defraud creditors that involved either (a) transfer of all or part ownership of, or other interest in, the real property without creditor's consent or court approval, or, (b) multiple bankruptcy filings affecting the real property. The following facts support this assertion:

Other pertinent information:

RESPONSE (*Identify any disputed items and specify the pertinent facts (to be completed by respondent):*

6. Relief Requested (check all applicable sections): (*To be completed by creditor*)

Creditor requests relief from the automatic stay to allow it to foreclose its lien on the above identified collateral, and, if necessary, to take appropriate action to obtain possession of the collateral.

Creditor has a security interest in real property and requests relief from stay with respect to an act against such property and that the relief be binding in any other bankruptcy case purporting to affect such real property filed not later than 2 years after the date of the entry of an order granting this motion.

Creditor requests that the 14-day stay provided by FRBP 4001(a)(3) be waived based on the following cause:

Other (describe and explain cause):

RESPONSE (*Identify any disputed items and specify the pertinent facts. If respondent agrees to some relief, attach a proposed order using Local Form (LBF) #720.90 available at www.orb.uscourts.gov under Rules & Forms/Local Bankruptcy Forms (LBF)) (to be completed by respondent):*

7. Documents:

If creditor claims to be secured in ¶3.b. above creditor's counsel has served on all parties listed in the notice, but not filed with the court (i.e., such documents will not be filed), a copy of the documents creating and perfecting the security interest. If respondent disputes the creation and/or perfection of the claimed lien(s), respondent has filed with the response all the documents creditor's counsel served.

RESPONDENT requests creditor provide Respondent with the following document(s), if any marked, which are pertinent to this response:

Postpetition payment history.

Documents establishing that creditor owns the debt described in ¶1 or is otherwise a proper party to bring this motion.

Other document(s) (specific description)

CREDITOR/ATTORNEY

Signature: _____

Name: _____

Address: _____

Email Address: _____

Phone No: _____

OSB#: _____

RESPONDENT DEBTOR/ATTORNEY (by signing, the respondent also certifies that [s]he has not altered the information completed by creditor)

Signature: _____

Name: _____

Address: _____

Email Address: _____

Phone No: _____

OSB#: _____

RESPONDENT CODEBTOR/ATTORNEY (by signing, the respondent also certifies that [s]he has not altered the information completed by creditor)

Signature: _____

Name: _____

Address: _____

Email Address: _____

Phone No: _____

OSB#: _____

YOU ARE HEREBY NOTIFIED THAT THE CREDITOR IS ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.